

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA §
§
v. § **CRIMINAL NO. 4:19-CR-148**
§
GONZALO J. J. MORALES-DIVO § **UNDER SEAL**
§

**GOVERNMENT'S UNOPPOSED MOTION
FOR ORDER IMPOSING MONEY JUDGMENT**

The United States (“the Government”), by and through its undersigned attorneys, and without opposition from Defendant Gonzalo Jose Jorge Morales Divo (“Defendant”), respectfully moves for the entry of a personal money judgement against Defendant in the amount of \$2,534,365.65.

PROCEDURAL BACKGROUND

On April 11, 2019, Defendant pleaded guilty to Count One of the Information pursuant to a Plea Agreement. Count One charges Defendant with conspiracy to violate the Foreign Corrupt Practices Act, Title 15, United States Code, Sections 78dd-2 and 78dd-3 (“FCPA”), in violation of Title 18, United States Code, Section 371.

The United States provided notice to the Defendant in the Information that pursuant to Title 18, United States Code, Section 981(a)(1)(C), the United States would seek to forfeit all property, real or personal, that constitutes or is derived from

proceeds traceable to Count One. The United States also provided notice that it would seek a money judgment equal to the total value of the property subject to forfeiture.

In his Plea Agreement, Defendant stipulated and agreed that the factual basis for his guilty plea supported the forfeiture of proceeds from the conspiracy to violate the FCPA. Defendant also consented to the imposition of a personal money judgment against him and acknowledged that one or more of the conditions set forth in Title 21, United States Code, Section 853(p) exists. The Plea Agreement provided that, prior to sentencing, the Government and Defendant would attempt to agree upon the appropriate amount of forfeiture. The parties have now come to an agreement on a money judgment in the amount of \$2,534,365.65, which is the amount of money Defendant received from certain companies, as acknowledged in the factual basis.

ARGUMENT AND AUTHORITIES

Federal Rule of Criminal Procedure 32.2(b)(1)(A) provides that “[i]f the government seeks a personal money judgment, the court must determine the amount of money that the defendant will be ordered to pay.” The Court’s forfeiture determination “may be based on evidence already in the record,” and the amount of the money judgment should be determined as soon as practical after a plea of guilty is accepted. FED. R. CRIM. P. 32.2(b)(1). The Fifth Circuit has endorsed the

imposition of personal money judgments. *United States v. Olguin*, 643 F.3d 384, 397 (5th Cir. 2011) (“We join our sister circuits and hold that money judgments are appropriate in the criminal forfeiture context.” (quoting *United States v. Day*, 524 F.3d 1361, 1378 (D.C. Cir. 2008))).

REQUESTED RELIEF

The United States moves that the Court impose a personal money judgment against Defendant in the amount of \$2,534,365.65. Defendant is unopposed to this motion. A proposed order is attached for the Court’s consideration.

Respectfully submitted,

ROBERT A. ZINK
CHIEF
Fraud Section
Criminal Division
United States Department of Justice

/s/ Sarah E. Edwards

SARAH E. EDWARDS
SONALI D. PATEL
TRIAL ATTORNEYS

Fraud Section, Criminal Division
U.S. Department of Justice
1400 New York Avenue, N.W.
Washington, D.C. 20005
Tel: (202) 305-6761

RYAN K. PATRICK
UNITED STATES ATTORNEY
Southern District of Texas

/s/ Robert S. Johnson

ROBERT S. JOHNSON
KRISTINE E. ROLLINSON
ASSISTANT UNITED STATES
ATTORNEYS

U.S. Attorney’s Office
Southern District of Texas
1000 Louisiana, Ste. 2300
Houston, TX 77002
Tel: (713) 567-9385

CERTIFICATE OF CONFERENCE

I certify that counsel for Defendant, Stephen Binhak, Esq., and Andrew H. Kaufman, Esq., were contacted about this motion, and stated on June 23, 2020, that the Defendant agrees to the amount of the money judgment and is unopposed to the relief sought.

/s/ Sarah E. Edwards

Sarah E. Edwards
Trial Attorney
Fraud Section, Criminal Division
U.S. Department of Justice

CERTIFICATE OF SERVICE

I hereby certify that, on August 26, 2020, I filed the foregoing motion under seal with the Clerk of the Court; and emailed a copy of the sealed motion and proposed order to counsel for the Defendant.

/s/ Sarah E. Edwards

Sarah E. Edwards
Trial Attorney
Fraud Section, Criminal Division
U.S. Department of Justice